

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SARAH LUTHE,

Plaintiff,

v.

Case No. 11-14879
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ACCEPTING REPORT AND RECOMMENDATION
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT
and DISMISSING ACTION**

This matter is before the Court on Magistrate Judge Mona K. Majzoub's Report and Recommendation [**Doc. No. 13, filed January 22, 2013**]. Objections were filed to the Report and Recommendation on February 5, 2013. A response was filed to the Objections on February 19, 2013.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v.*

Secretary of HHS, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. This Court does not have the authority to reweigh the factual evidence before the ALJ if the ALJ's decision is supported by substantial evidence. The Court agrees with the Magistrate Judge that the ALJ's conclusion that Plaintiff does not meet the listing level impairment requirements of Section 12.04 was supported by substantial evidence on the record, even though the ALJ's written decision "leaves much to be desired" regarding Section 12.04. (R&R, p. 12) The Magistrate Judge reached her conclusion after a review of the medical record as a whole. The Court further agrees with the Magistrate Judge that the ALJ's hypothetical posed to the Vocational Expert as to Plaintiff's residual functional capacity was appropriate. The Court also agrees with the Magistrate Judge that the ALJ properly relied on the vocational expert's testimony and that the ALJ appropriately utilized the vocational expert's testimony.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Mona K. Majzoub [Doc. No. 13, filed January 22, 2013] is **ACCEPTED** and **ADOPTED** as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Doc. No. 9, filed March 1, 2012] is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motions for Summary Judgment [Doc. No. 11, filed May 2, 2012] is **GRANTED**.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

IT IS FURTHER ORDERED this action is DISMISSED with prejudice.

s/Denise Page Hood

Denise Page Hood

United States District Judge

Dated: March 27, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 27, 2013, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager